



6450-01-P

DEPARTMENT OF ENERGY

Bonneville Power Administration

[BPA File No.: OS-14]

Public Hearing and Opportunities for Public Review and Comment

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of Proposed 2014 Oversupply Rates.

SUMMARY: On March 6, 2012, BPA filed its Oversupply Management Protocol with the Federal Energy Regulatory Commission (Docket No. EL11-44) as an amendment to BPA's Open Access Transmission Tariff. The protocol authorizes BPA to displace generation in its balancing authority area with Federal hydropower and provide compensation to generators for certain costs related to the displacement. BPA is holding the OS-14 rate proceeding to establish a rate to recover the costs incurred under the protocol.

DATES: Persons wishing to intervene and become parties to the proceeding must file a petition to intervene, via U.S. Mail or electronic mail, no later than 5:00 p.m. on November 15, 2012. A prehearing conference will be held at 9:00 a.m. on November 14, 2012. Written comments by non-party participants must be received by February 15, 2013, to be considered in the Administrator's Record of Decision.

ADDRESSES:

1. Petitions to intervene should be directed to Hearing Clerk - L-7, Bonneville Power Administration, 905 NE 11th Ave., Portland, Oregon 97232, or may be emailed to rateclerk@bpa.gov. In addition, copies of the petition must be served concurrently on BPA's

General Counsel directed to Mr. Allen Chan, LT-7, Office of General Counsel, 905 NE 11th Ave., Portland, Oregon 97232, or via email to acchan@bpa.gov (see section III.A. for more information regarding interventions).

2. Written comments by participants should be submitted to the Public Engagement Office - DKE-7, Bonneville Power Administration, P.O. Box 14428, Portland, Oregon 97293. You may also e-mail your comments to www.bpa.gov/comment. BPA requests that all comments and documents intended to be part of the Official Record in this rate proceeding contain the designation OS-14 in the subject line of the e-mail.

3. The prehearing conference will be held in the BPA Rates Hearing Room, 2nd floor, 911 NE 11th Ave., Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT:

Heidi Helwig - DKE-7, Public Affairs Specialist, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208-3621; by phone at 503-230-3458 or toll free at 1-800-622-4519; or via e-mail to hyhelwig@bpa.gov.

Responsible Officials: Mr. Raymond D. Bliven, Power Rates Manager, and Ms. Rebecca E. Fredrickson, Transmission Rates Manager.

BPA Attorney Advisor: Mr. Allen Chan is the principal BPA attorney in this matter.

Mr. Chan may be contacted by U.S. Mail at: Mr. Allen Chan, Office of General Counsel, LT-7, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208-3621 or via email at: acchan@bpa.gov.

SUPPLEMENTARY INFORMATION:

Part I - Introduction and Procedural Background

The Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act) provides that BPA must establish and periodically review and revise its rates so that they recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power, including amortization of the Federal investment in the Federal Columbia River Power System (FCRPS) over a reasonable number of years and BPA's other costs and expenses. The Northwest Power Act also requires that BPA's rates be established based on the record of a formal hearing, and for transmission rates only, that the costs of the Federal transmission system be equitably allocated between Federal and non-Federal power utilizing the system.

This proceeding is being conducted under the rule for general rate proceedings, section 1010.9 of BPA's Procedures. A proposed schedule for the proceeding is provided below. A final schedule will be established by the Hearing Officer at the prehearing conference.

BPA Direct Case	November 14, 2012
Prehearing Conference	November 14, 2012
Parties File Petition to Intervene	November 15, 2012
Motions to Strike	December 7, 2012
Data Request Deadline	December 7, 2012
Answers to Motions to Strike	December 14, 2012
Data Response Deadline	December 14, 2012

Parties file Direct Case	January 18, 2013
Clarification	January 29-February 1, 2013
Motions to Strike	February 6, 2013
Data Request Deadline	February 6, 2013
Answers to Motions to Strike	February 13, 2013
Data Response Deadline	February 13, 2013
Close of Participant Comments	February 15, 2013
Litigants file Rebuttal	March 5, 2013
Clarification	March 7-8, 2013
Motions to Strike	March 13, 2013
Data Request Deadline	March 13, 2013
Answers to Motions to Strike	March 20, 2013
Data Response Deadline	March 20, 2013
Cross-Examination	March 25-29, 2013
Initial Briefs Filed	April 29, 2013
Oral Argument	May 9, 2013
Draft ROD issued	June 11, 2013
Briefs on Exceptions	June 28, 2013
Final ROD – Final Studies	July 22, 2013

Section 1010.7 of BPA’s Procedures prohibits *ex parte* communications. The *ex parte* rule applies to all BPA and DOE employees and contractors. Except as provided below, any outside communications with BPA and/or DOE personnel regarding the merits of

any issue in BPA's rate proceeding by other Executive Branch agencies, Congress, existing or potential BPA customers (including tribes), and nonprofit or public interest groups are considered outside communications and are subject to the *ex parte* rule. The general rule does not apply to communications relating to: (1) matters of procedure only (the status of the rate proceeding, for example); (2) exchanges of data in the course of business or under the Freedom of Information Act; (3) requests for factual information; (4) matters for which BPA is responsible under statutes other than the ratemaking provisions; or (5) matters which all parties agree may be made on an *ex parte* basis. The *ex parte* rule remains in effect until the Administrator's Final ROD is issued, which is scheduled to occur on or about July 22, 2013.

Part II - Description of the Rate Proceeding

A. Purpose of the Hearing

During periods of high water flows on the Columbia River, primarily during the spring and early summer, BPA, the Army Corps of Engineers (Corps), and the Bureau of Reclamation (Bureau) must take all reasonable actions to avoid excess spill in order to protect endangered fish and other aquatic species in accordance with the Clean Water Act, Endangered Species Act, and court orders. At times, spilling water over the dams, rather than running water through the turbines to generate electricity, increases the levels of nitrogen, oxygen, and other gases in the water, beyond state water quality standards. To meet applicable environmental responsibilities, during periods of high flows BPA, the Corps, and the Bureau attempt to moderate spill and avoid total dissolved gases (TDG) beyond state water quality standards by running more water through the turbines.

To avoid spilling water beyond approved TDG levels, other generation serving load is

reduced or shut down and an equal amount of additional hydroelectric generation is delivered to that load. In May 2011, the BPA Administrator issued a Final Record of Decision adopting an Interim Environmental Redispatch policy, under which BPA could displace generation within its balancing authority area with free Federal hydropower. On June 13, 2011, a group of wind customers filed a complaint with the Commission, requesting, among other things, that the Commission use its authority under section 211A of the Federal Power Act to order BPA to cease its environmental redispatch policy because it failed to provide transmission service on terms and conditions that are comparable to those under which BPA provides service to itself and that are not unduly discriminatory or preferential.

On December 7, 2011, the Commission issued an order finding that BPA's environmental redispatch policy failed to provide comparable transmission service and ordered BPA to file revisions to its Open Access Transmission Tariff to comply with the order. On March 6, 2012, BPA filed the Oversupply Management Protocol with the Commission, under which generators can elect to be compensated for certain costs related to displacement. Such costs are limited to (1) production tax credits; (2) renewable energy credits unbundled from the sale of energy; and (3) for contracts executed prior to March 6, 2012, costs related to bundled sales of renewable energy credits and energy. The Oversupply Management Protocol is set to expire on March 30, 2013.

This OS-14 rate proceeding will establish rates to recover the costs already incurred under the Oversupply Management Protocol, and any future costs incurred up to September 30, 2015, in the event the Oversupply Management Protocol is renewed after it expires on March 30, 2013. The extension of the effective period of the rates is contingent on further

guidance from the Commission. BPA will revise its proposal as necessary to conform to such guidance. BPA is proposing to adopt a power rate to collect 50 percent of the costs from power customers and a new control area services rate to collect the other 50 percent of the costs from those generators that elect to be compensated for displacement.

B. The National Environmental Policy Act

BPA is in the process of assessing the potential for environmental effects resulting from implementation of the proposed OS-14 rates, consistent with the National Environmental Policy Act (NEPA). BPA has previously prepared an Environmental Clearance Memorandum, dated March 23, 2012, for the Oversupply Management Protocol, which considered environmental implications of the protocol and documented the categorical exclusion of the protocol from further NEPA review. BPA will evaluate whether the OS-14 rate proposal is covered within the scope of this previous NEPA documentation or whether additional NEPA documentation is necessary for any aspects of the OS-14 rate proposal. If additional NEPA documentation is necessary, a preliminary review of the OS-14 rate proposal indicates that it involves primarily administrative and financial matters that appear to fall within a class of actions that are also categorically excluded from further NEPA review pursuant to applicable NEPA regulations. Persons may submit comments regarding potential environmental effects of the proposal to Katherine Pierce, NEPA Compliance Officer, KEC-4, Bonneville Power Administration, 905 NE 11th Avenue, Portland, OR 97232. Any such comments received by the comment deadline for Participant Comments identified in section III.A. below will be considered by BPA's NEPA compliance staff in its environmental evaluation of the OS-14 rate proposal.

C. Oversupply Workshops

In preparation for the OS-14 rate proceeding, BPA staff held three public workshops with customers and interested parties from March 2012 through May 2012. BPA published notices for all workshops, which were well attended. During the workshops, BPA staff presented and discussed information about the potential costs arising from oversupply conditions, the functionalization of oversupply costs between power and transmission, and the allocation of the functionalized costs among customers. BPA also shared drafts of rate schedule language for the oversupply rates and potential procedural schedules. Staff has used the comments received at the workshops to assist in constructing the Initial Proposal.

Part III - Public Participation

A. Distinguishing Between “Participants” and “Parties”

BPA distinguishes between “participants in” and “parties to” the hearing. Apart from the formal hearing process, BPA will receive written comments, views, opinions, and information from “participants,” who are defined in BPA’s Procedures as persons who may submit comments without being subject to the duties of, or having the privileges of, parties. Participants’ written comments will be made part of the official record and considered by the Administrator. Participants are not entitled to participate in the prehearing conference; may not cross-examine parties’ witnesses, seek discovery, or serve or be served with documents; and are not subject to the same procedural requirements as parties. BPA customers whose rates are subject to this proceeding, or their affiliated customer groups, may not submit participant comments. Persons who are members or employees of organizations that have intervened in the rate proceeding may submit general comments as participants but may not

use the comment procedures to address specific issues raised by their intervenor organization.

Written comments by participants will be included in the record if they are received by February 15, 2013, and should be submitted to the address listed in the “ADDRESSES” section of this notice.

Entities or persons become parties to the proceeding by filing petitions to intervene, which must state the name and address of the entity or person requesting party status and their interest in the hearing. BPA customers and affiliated customer groups will be granted intervention based on a petition filed in conformance with BPA’s Procedures. Other petitioners must explain their interests in sufficient detail to permit the Hearing Officer to determine whether such petitioners have a relevant interest in the hearing. Pursuant to Rule 1010.1(d) of BPA’s Procedures, BPA waives the requirement in Rule 1010.4(d) that an opposition to an intervention petition be filed and served 24 hours before the prehearing conference. Any opposition to an intervention petition must instead be made at the prehearing conference. Any party, including BPA, may oppose a petition for intervention. All timely petitions will be ruled on by the Hearing Officer. Late interventions are strongly disfavored. Opposition to an untimely petition to intervene must be filed and received by BPA within two days after service of the petition.

BPA is holding the OS-14 rate proceeding at the same time as the BP-14 rate proceeding for power, transmission, and ancillary and control area service rates. However, these proceedings are separate. As a result, entities or persons wishing to intervene in both

dockets must file separate petitions to intervene, and all filings must be made in the rate proceeding to which the filing pertains.

B. Developing the Record

The record will include, among other things, the transcripts of the hearing; testimony, evidence, and argument entered into the record by BPA and the parties; written comments from participants; and other material accepted into the record by the Hearing Officer. The Hearing Officer then will review the record and certify the record to the Administrator for final decision.

Parties will have the opportunity to file initial briefs after the close of cross-examination. BPA then will issue a Draft Record of Decision that will include the Administrator's preliminary decisions. Parties may file briefs on exceptions, after which the Administrator will issue the Final Record of Decision establishing the rate.

The Administrator will develop a final rate based on the entire record. The Administrator will serve copies of the Final Record of Decision on all parties and will file its rates with the Commission for confirmation and approval.

Part IV – Oversupply OS-14

A. Scope of the Oversupply Rate Proceeding

Pursuant to Rule 1010.3(f) of BPA's Procedures, the Administrator limits the scope of this proceeding to issues concerning the rates for recovering the costs of the Oversupply Management Protocol described in Part II.A of this notice. In particular, the following issues are not part of the scope of the case, and the Hearing Officer is directed to strike all testimony concerning these issues: the terms of the Oversupply Management Protocol;

whether the Oversupply Management Protocol complies with the Commission's Order issued on December 7, 2011; whether BPA took all actions to avoid using the Oversupply Management Protocol, including the payment of negative prices to generators outside of BPA's balancing authority area; the scope of BPA's environmental obligations; program levels and program level forecasts for any BPA program; and rates previously established or to be established in any other rate case. In addition, potential environmental impacts are not an issue in this proceeding. Environmental impacts are addressed in a concurrent NEPA process. See section II.B. Pursuant to § 1010.3(f) of BPA's Procedures, the Administrator directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that seeks in any way to address the potential environmental impacts of the rate being developed in this OS-14 rate proceeding.

B. Summary of the 2014 Oversupply Rate Proposal

The proposed OS-14 rates are formula rates designed to recover BPA's oversupply costs. See Part II.A for a description of oversupply, the Oversupply Management Protocol, and BPA's incurrence of costs to mitigate oversupply conditions.

The rates will recover the following costs incurred between March 31, 2012, and September 30, 2015 (again, costs will be recovered for periods after March 30, 2013, if the protocol is renewed and pending Commission guidance): (1) costs of an independent evaluator; and (2) payments to generators for (a) production tax credits, (b) renewable energy credits, and (3) losses with respect to certain power sales contracts. Under the proposed formula rates, BPA would recover actual costs rather than forecast costs, therefore avoiding the need to perform a later true-up between forecast costs and actual costs.

The OS-14 rate proposal consists of two parts: (1) a power rate that applies as a separate charge to the Priority Firm Power (PF-14) rate, the Industrial Firm Power (IP-14) rate, and the New Resource Firm Power (NR-14) rate; and (2) a new control area service rate. The oversupply costs to be recovered would be allocated equally between the power rate and the control area services rate – one-half of the costs to the power Oversupply rate and the other half to the control area service Oversupply rate. The costs would then be charged to the customers that are subject to the two rates.

The power Oversupply rate would be charged to customers subject to PF-14, IP-14, and NR-14 rates. The Oversupply charge would be 50 percent of the costs incurred under the Oversupply Management Protocol multiplied by the customer's load, divided by the sum of all power customers' load. For PF customers' loads, BPA proposes to use the lesser of each customer's Rate Period High Water Mark (RHW) and the customer's net requirement. For IP customers' loads, BPA proposes to use each customer's contract energy load. Currently, there are no customers being served at the NR rate and BPA does not expect any such customers during the effective period of the OS-14 rates.

The control area service Oversupply rate would be charged to each generator that elects compensation pursuant to the Oversupply Management Protocol, based on the facility nameplate capacity in kilowatts. The control area service charge would be 50 percent of the costs incurred under the Oversupply Management Protocol multiplied by the nameplate capacity of each participating generator, divided by the sum of all generating facility nameplate capacities of all participating generators.

BPA proposes to bill for costs incurred prior to the effective date of the OS-14 rate

after the effective date of the OS-14 rate. BPA would include charges for costs incurred after the effective date on the bill for the month those costs were incurred, subject to a rate cap as discussed below. BPA proposes to make the OS-14 rates effective until all costs have been billed and such bills have been fully paid.

BPA is proposing to cap the total amount that would be billed under each Oversupply rate at \$4,000,000 in any one month. The rate cap would allow the billing to be spread over several months to ease the cash flow effect on customers. Any oversupply costs in excess of the cap will carry over to subsequent months' bills until the balance is completely billed.

Part V – Proposed Oversupply Rate Schedules

BPA's proposed 2014 control area service Oversupply Rate Schedule and power General Rate Schedule Provision Oversupply Rate are a part of this notice and are available for viewing and downloading on BPA's website at www.bpa.gov/goto/OS14Schedule. Copies of the proposed rate schedules also are available for viewing in BPA's Public Reference Room at the BPA Headquarters, 1st Floor, 905 NE 11th Avenue, Portland, OR 97232.

Issued this 29th day of October, 2012.

Stephen J. Wright
Administrator and Chief Executive Officer

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